

DELEGATE BOTHE: Yes, I do.

THE CHAIRMAN: Delegate Chabot.

DELEGATE CHABOT: I take it that hearing is a word which is broader than trial. It includes trials and perhaps other things, and I wonder then if we are creating some potential confusion if we have the word pre-trial in there.

Our effort, as I believe the Chair properly stated, was to contrast release and incarceration, and to intend to include thereby all the different things that can occur to a person prior to a hearing, which may be a trial or which may be something other than a trial. I wonder if we cannot achieve that purpose better by doing what we said thus far, except by leaving out the word "pre-trial."

THE CHAIRMAN: Leaving out the word what?

DELEGATE CHABOT: "Pre-trial."

THE CHAIRMAN: Delegate Bothe.

DELEGATE BOTHE: Delegate Chabot, certainly that would completely run counter to the whole meaning of the phrase.

THE CHAIRMAN: Delegate Bothe, may the Chair interrupt? I think Delegate Chabot is suggesting that the words "pending hearing" following "incarceration" serve the same purpose as your words "pre-trial." In other words, the phrase would be "terms of release or incarceration pending hearing," to mean terms of release pending hearing, or terms of incarceration pending hearing. Is that your point, Delegate Chabot?

DELEGATE CHABOT: Yes, sir.

THE CHAIRMAN: He does not seek to change the meaning. He suggests that it is already there.

DELEGATE BOTHE: I understand it now, and perhaps that would be a better way of expressing it.

THE CHAIRMAN: I think your idea is the contrast of release and incarceration. It makes it more effective.

DELEGATE BOTHE: I would like to read the whole matter as it would appear if we adopt Delegate Chabot's suggestion.

THE CHAIRMAN: As the Chair understands, the sentence would then read, "Commissioners may exercise powers only with respect to warrants of arrest, collateral, or other terms of release or incarceration

pending hearing, and then only as prescribed by rule."

DELEGATE BOTHE: That gives me a little difficulty, Mr. Chairman.

THE CHAIRMAN: May the Chair suggest that the record shows clearly what is intended, and the Committee on Style could wrestle with the question of whether the word is necessary.

DELEGATE BOTHE: I would be happy to sit down with the Committee on Style and work out the meaning as the intention is expressed.

THE CHAIRMAN: For the record, as the Chair understands it, the movers intend that the phrases, "terms of release or incarceration pending hearing," or "terms of pre-trial release or incarceration pending hearing," mean terms of release pending hearing or terms of incarceration pending hearing.

Is there any further discussion?

Delegate Mudd.

DELEGATE MUDD: Mr. Chairman, might not the Committee on Style and Drafting also consider whether by striking "bail" and leaving in "collateral" perhaps some restriction is intended there?

THE CHAIRMAN: I do not understand what you mean by some restriction.

DELEGATE MUDD: Well, by spelling out collateral is one thing they can do, but not including bail by specifying collateral.

THE CHAIRMAN: For the record, if you understand you, the Chair understands that the word "bail" is stricken only on the assumption that it is embraced within the term "terms of release," and if there is any question about it you want it reported to the Convention?

DELEGATE MUDD: That is correct.

THE CHAIRMAN: Is there any further discussion? Are you ready for the question? The question arises on the adoption of Amendment 16, as modified. A vote Aye is a vote in favor of the adoption of the amendment as modified. A vote No is a vote against. Cast your votes.

Has every delegate voted? Does any delegate desire to change his vote? The Clerk will record the vote.

There being 112 votes in the affirmative and none in the negative, the motion is carried. The amendment is adopted.